

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MARK PHILLIPS,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-01144

GLOBAL CONTACT SERVICES, LLC, et al.,

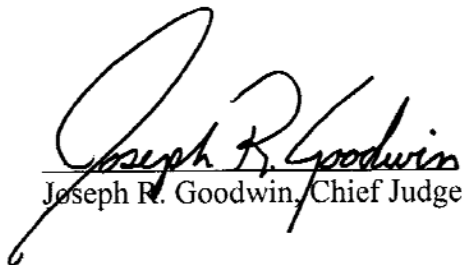
Defendants.

MEMORANDUM OPINION & ORDER

Pending before the Court is defendant Bank of America Corporation's Motion to Dismiss Complaint [Docket 7], filed under Rule 12(b)(6) of the Federal Rules of Civil Procedure on November 5, 2010. Bank of America Corporation argues that the Complaint fails to state a claim that Bank of America Corporation employed or terminated the plaintiff, who alleges his discharge violated public policy. Plaintiff Mark Phillips responded on November 17, 2010 and also filed an Amended Answer pursuant to Rule 15(a)(1)(B). Because the Motion is untimely, and because the Amended Complaint sets forth claims specifically against defendant Bank of America Corporation, the Motion to Dismiss is hereby **DENIED**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: December 7, 2010


Joseph R. Goodwin, Chief Judge